IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.395 OF 2004

M/s.Mahaindra & Mahindra Ltd. ..Appellant.

V/s.

Commissioner of Income-tax ..Respondent.

Mr.J.I.Patel i/b.B.V.Jhaveri for appellant.

Mr.Ashok Kotangale for respondent.

CORAM : H.L.GOKHALE AND J.P.DEVADHAR, JJ.

DATED : 12TH DECEMBER, 2005.

P.C. :-

1. Rule, returnable forthwith.

2. Mr.Ashok Kotangale waives service for the respondent.

3. Heard finally with the consent of the parties.

4. The order of the Income Tax Appellate Tribunal confirming the appeal in Appeal No.3058/1996 for the assessment year 1990-91 is under challenge in the present appeal. We find from the impugned order

that in fact no reasons are given for coming to the conclusion in passing the order under section 163 of the Income Tax Act making the assessee, an agent of a non resident and imposing the liability on the assessee. It is only for this reason, we allow this appeal concerning the assessment year 1990-91 in Appeal No.3058/1996 and set aside that order and restore the appeal to the file of the Income Tax Appellate Tribunal to be decided after hearing both the parties and after giving reasons in support of that order.

5. We allow the appeal at the stage of admission itself. Rule is made absolute in terms of the order with no order as to costs.

6. All rival contentions are kept open.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)